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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,955	08/04/2003	Louis J. Bintz	14414-011001	5172
26191 7590 03/21/2007 FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER VARGOT, MATHIEU D	
			ART UNIT	PAPER NUMBER
			1732	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/21/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/633,955

Applicant(s)

BINTZ ET AL.

Examiner

Mathieu D. Vargot

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 15-20 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang et al in view of Dorn et al essentially for reasons of record as set forth in paragraph 1 of the last office action noting the following.

Upon reconsideration, Zhang et al has been applied as the primary reference in teaching a multi-layered optical waveguide. Dorn et al would still be applicable in teaching the aspect of poling one layer at a time, such seen to be advantageous should one desire a refractive index change in the different layers. Nutt has now been dropped from the rejection.

2. Claims 4-14 and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang et al in view of Dorn et al and further in view of Oh et al in Appl. Phys. Lett. 2000, 76(24):3525-3527 for reasons of record as set forth supra and in paragraph 2 of the last office action.

3. Applicant's arguments filed January 4, 2007 have been fully considered but they are not persuasive. While the rejection has been reformatted to some extent—Nutt has been dropped as being cumulative with respect to the other references—it is respectfully submitted that the claims are nevertheless obvious. Applicant suggests that the rejection should be removed since the claims are patentable thereover. However, applicant merely argues the references separately when the rejection is based on the

combination. It is noted and agreed with that the reference to Dorn et al is not directed to a waveguide of the instant type. However, it is directed to the formation of a waveguide which happens to be used as an optical switch and it clearly teaches the instant process steps of poling and crosslinking the various layers. Certainly, one of ordinary skill in the optical film poling art would recognize that the general method taught in Dorn et al would have been applicable to making waveguides of the instant type and those taught in Zhang et al. The argument that one of ordinary skill would not look to Dorn et al is not persuasive. Dorn et al is certainly analogous art and would be common knowledge to those desiring to separately pole different layers. Dorn et al clearly teaches that such an approach would provide layers with different refractive indices and one of ordinary skill in the art would clearly desire this when making a step gradient index waveguide. It is respectfully submitted that applicant has made the instant invention using knowledge clearly known and available to one of ordinary skill in this art. On that basis, the claims must stand rejected as being obvious.


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1732

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
March 17, 2007


Mathieu D. Vargot
Primary Examiner
Art Unit 1732

3/17/07